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February 24, 1999

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FEB 24 1999

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S. W.
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Re: Notice of Ex Parte Communication in Implementation of
the Local Competition Provisions in the
Telecommunications Act of 1996, CC Docket No. 96-98;**

**Deployment of Wireline Services Offering Advanced
Telecommunications Capability, CC Docket No. 98-147 ✓**

Dear Ms. Salas:

Yesterday, on behalf of Qwest Communications Corporation ("Qwest"), the undersigned of Hogan and Hartson L.L.P.; Genevieve Morelli, Senior Vice President, Government Affairs and Senior Associate General Counsel, Qwest; and Jane Kunka, Manager, Public Policy, Regulatory and Legislative Affairs, Qwest, met with Christopher Wright, General Counsel; John Ingle, Office of General Counsel; and Laurence N. Bourne, Office of General Counsel. The purpose of the meeting was to discuss the issues to be considered by the FCC on remand from the U.S. Supreme Court's decision in AT&T v. Iowa Utilities Board, S.Ct. No. 97-826, et al. (Jan. 25, 1999). The points made in the attached handout were discussed at the meeting. Qwest also discussed the Motion of the Local Exchange Carriers regarding further proceedings on remand, filed February 17, 1999 in Iowa Utilities Board v. FCC, No. 96-3321 (8th Cir.).

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I have hereby submitted two copies of this notice to the Secretary, as required by the Commission's rules. Please return a date-stamped copy of the enclosed (copy provided).

Please contact the undersigned if you have any questions.

Respectfully submitted,

A handwritten signature in cursive script, reading "Linda L. Oliver" followed by a stylized flourish.

Linda L. Oliver
Counsel for Qwest Communications
Corporation

Enclosures

cc: Christopher Wright
John Ingle
Laurence N. Bourne

Qwest Communications Corporation
February 1999

Network Elements That Should Be Mandated
Under the "Necessary" and "Impair" Test of Section 251(d)(2)

CC Docket No. 96-98
CC Docket No. 98-147

The Section 251(d)(2) standard adopted by the Commission on remand from the Supreme Court must take into account the principles and purposes of the 1996 Act:

- The purpose of Section 251(c)(3) was to make available to all competitors the economies of scale and scope of the ubiquitous incumbent local exchange carrier network.
- As the Supreme Court made clear, entrants do not need to own their own local exchange facilities in order to take advantage of ILEC network elements.
- As the FCC determined in its August 1998 Advanced Services Order, the Act applies equally to old and new ILEC investment, to voice and data services, and to circuit and packet technology.

The Supreme Court instructed the FCC to interpret Section 251(d)(2) in light of the goals of the Act:

- To eliminate entry barriers -- both legal and practical -- in the local market.
- To ensure the speedy development of local exchange competition.
- To bring competitive advanced services to all consumers.
- To ensure a diversity of service providers by making available a diversity of entry paths.
- To encourage competitive facilities investment by making it possible to enter first by using the incumbent LEC network elements, then substituting competitive facilities where economically justifiable.

Mandated Network Elements Must Be Based on the Evolution of an Advanced ILEC Network

The Commission cannot and should not make distinctions between conventional and advanced network capabilities in determining which network elements must be provided under Section 251(c)(2).

Advanced network features and functionalities are provided through advanced technology that reflects the continued evolution of the ILEC network.

LOOPS

Like other network elements, loops should be defined in terms of their functionality, not solely in terms of hardware.

Loops should include, for example:

- xDSL-equipped loops (i.e, including electronics)
- DS-1, DS-3
- OC-3, OC-12, OC-N
- Dark Fiber

TRANSPORT

Transport should be defined in technology-neutral terms.

Transport should include:

- Dedicated
- Shared
- Packet

SWITCHING

Switching should include access to any ILEC switching capability, including:

- Circuit switching
- Packet switching (including ATM, frame relay, routers, and other packet switching capability)

OSS

Operational Support Systems (OSS) should include the capabilities needed by competitors to provide and market *advanced* as well as conventional services.

Competitors need access to databases that contain updated information about ILEC plant. This information should identify, for example:

- loops that are already equipped with DSL capability
- loops that are capable of supporting DSL
- loops that have been conditioned to be attached to DSL equipment
- cable pair counts going to each customer
- deployment of DLC technology by customer

Performance standards and measurements across all metrics are critical and should be specified as part of Section 251(c)(3) obligations.

Availability of Interconnection Agreements

The Commission should order ILECs to make the terms of their interconnection agreements available to competitors without regard to the date on which those agreements were signed.

- At least one ILEC (Bell Atlantic) interprets Section 51.809(c) of the FCC's rules to allow it to deny competitors the right to take the terms of other interconnection agreements if those agreements have been in effect more than one year.
- Nothing in Section 251(i) limits the availability of interconnection agreement terms.
- The Supreme Court's recent decision granting competitors "pick and choose" rights that were previously unavailable (due to the Eighth Circuit's actions) make it essential that the terms of any interconnection agreement be available to competitors, regardless of how long those agreements were in effect.
- The "reasonable time" provision in the FCC's rule must be read in light of the Supreme Court's action overturning the Eighth Circuit's decision.